

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
(1) JAMES C. MAYEK,)
(2) JUDITH A. MAYEK,)
(3) WISCONSIN DEPARTMENT OF)
WORKFORCE DEVELOPMENT,)
(4) WISCONSIN DEPARTMENT OF)
REVENUE,)
(5) DISCOVER BANK, and)
(6) PORTAGE COUNTY TREASURER'S)
OFFICE,)
)
Defendants.)
_____)

Case No. 17-cv-120 (WMC)

STIPULATION AND CONSENT ORDER
PERMITTING PRIVATE SALE OF REAL PROPERTY

WHEREAS, on July 19, 2017, the Court entered an Order and Judgment (Dkt. No. 21) in favor of the United States and against Defendants James C. Mayek, Judith A. Mayek, Discover Bank, Wisconsin Department of Workforce Development, and Portage County Treasurer's Office.

WHEREAS, the judgment declares that the United States has valid and subsisting federal tax liens on the real property located at 3157 Woods Road, Junction City, Portage County, Wisconsin 54443 (the "Woods Road Property"). The Woods Road Property consists of three parcels, with the following legal descriptions:

Parcel 1:

The Northwest (NW1/4) Quarter of the Southeast (SE1/4) Quarter of Section No. Eighteen (18), Township No. Twenty-four (24) North, Range No. Seven (7) East, together with all improvements thereon situated.

Parcel 2:

The Northeast Quarter of the Southwest Quarter of Section 18, Township 24 North, Range 7 East.

Parcel 3:

The North one-half of the West one-half of the Southwest Fractional Quarter, Section 18, Township 24 North, Range 7 East, EXCEPT the North 10 acres thereof, and EXCEPT that part conveyed to Archie R. Olds and wife by deed recorded in Book 232 of Deeds, page 12, and further EXCEPTING the South 208.71 feet of the North 668.71 feet thereof.

WHEREAS, the judgment entitles the United States to enforce its federal tax liens through judicial sale of the Woods Road Property.

WHEREAS, on July 19, 2017, the Court issued an Order of Sale authorizing the IRS's Property Appraisal and Liquidation Specialists ("PALS") to sell the Woods Road Property at auction in accordance with 28 U.S.C. §§ 2001 and 2002. (Dkt. No. 22).

WHEREAS, Defendants James and Judith Mayek have requested that the United States allow them to sell the Woods Road Property privately to BNB2 Properties, LLC, for an amount determined by a third-party appraiser, rather than selling the Woods Road Property through public auction.¹

WHEREAS, the United States expects to collect more money to apply towards Defendants James and Judith Mayek's federal income tax liabilities through a private sale versus a public auction.

WHEREAS, the United States and the Wisconsin Department of Revenue are amenable to permitting the private sale of the Woods Road Property provided that the sale closes within 120 days of the Court entering an order permitting the private sale.

¹ The Woods Road Property appraised for a low of \$192,960 and a high of \$257,280 on or about May 10, 2018. See Exhibit 1, Appraisal Report.

Accordingly, it is hereby STIPULATED AND AGREED by the United States, the Wisconsin Department of Revenue, James Mayek and Judith Mayek, that, subject to the Court's approval:

1. James and Judith Mayek may sell the Woods Road Property by private sale to BNB2 Properties, LLC.
2. The private sale of the Woods Road Property must close within 120 days of the Court approving this stipulated order.
3. If the sale does not close within 120 days of the Court approving this stipulated order, PALS shall sell the Woods Road Property in accordance with the Order of Sale dated July 19, 2017 (Dkt. No. 22).
4. James Mayek and Judith Mayek shall provide counsel for the United States with the contact information, including telephone number, of any title company retained in the execution of the sale of the Woods Road Property within 24 hours of retaining the title company.
5. James Mayek and Judith Mayek shall provide a copy of this order to any title company and closing agent retained in the execution of the private sale of the Woods Road Property.
6. At least five business days prior to closing, James Mayek and Judith Mayek must notify counsel for the United States of the date and location of the closing.
7. BNB2 Properties, LLC may not use any funds or assets belonging to either James Mayek or Judith Mayek to purchase the Woods Road Property. Violation of this paragraph shall be deemed a contempt of court and punishable as such.

8. Up until the date that the Woods Road Property is privately sold, James Mayek and Judith Mayek shall take all reasonable steps necessary to preserve the Woods Road Property (including all buildings, improvements, fixtures and appurtenances on the Woods Road Property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the Woods Road Property, and neither James Mayek, Judith Mayek, nor any other occupant of the Woods Road Property shall commit waste against the Woods Road Property, or either cause or permit anyone else to do so. If any portion of the Woods Road Property is destroyed before its sale and James Mayek or Judith Mayek is entitled to insurance proceeds, the insurance proceeds shall be paid into the registry of this Court. Violation of this paragraph shall be deemed a contempt of court and punishable as such.
9. The Woods Road Property may be sold privately for no less than \$192,000. If sold, the title company or closing agent shall collect and distribute the proceeds as follows:
- a. First, to pay any settlement charges, including any state and local taxes;
 - b. Second, to Portage County Treasurer's Office or other local taxing authority for real property taxes and other local assessments that may be due and owing which are entitled to priority under 26 U.S.C. § 6323(b)(6).
 - c. Third, to the United States and the Wisconsin Department of Revenue for payment of federal and state tax debts owed to the respective entities, in the order of priority, as determined by the date of assessment, set forth below:²

Creditor	Tax Ending Period	Date of Assessment
United States	Dec. 31, 2006	Sept. 12, 2012

² The United States and the Wisconsin Department of Revenue will provide specific payoff amounts once James and Judith Mayek provide counsel for the United States with the date of closing, as called for in paragraph 6, above.

United States	Dec. 31, 2007	Sept. 12, 2012
United States	June 30, 2008	Sept. 12, 2012
United States	Sept. 30, 2008	Sept. 12, 2012
United States	Dec. 31, 2008	Sept. 12, 2012
United States	Mar. 31, 2009	Sept. 12, 2012
United States	June 30, 2009	Sept. 12, 2012
United States	Sept. 30, 2009	Sept. 12, 2012
United States	Dec. 31, 2009	Sept. 12, 2012
United States	Mar. 31, 2010	Sept. 12, 2012
United States	June 30, 2010	Sept. 12, 2012
United States	Sept. 30, 2010	Sept. 12, 2012
United States	Dec. 31, 2010	Sept. 12, 2012
WDR	Dec. 31, 2011	Sept. 24, 2012
WDR	Dec. 31, 2012	Nov. 25, 2014
WDR	Dec. 31, 2013	Feb. 2, 2015
United States	Dec. 31, 2012	Feb. 23, 2015
United States	Mar. 31, 2013	Feb. 23, 2015
United States	June 30, 2013	Feb. 23, 2015
United States	Sept. 30, 2013	Feb. 23, 2015
United States	Dec. 31, 2013	Feb. 23, 2015
United States	Mar. 31, 2014	Dec. 14, 2015
United States	June 30, 2014	Dec. 14, 2015
United States	Sept. 30, 2014	Dec. 14, 2015
WDR	Dec. 31, 2014	Mar. 16, 2016
WDR	Various (withholding)	Mar. 28, 2016

- d. Fourth, any further remaining sale proceeds shall be held in the Court's registry pending further order of the Court.

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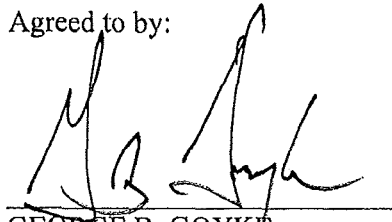
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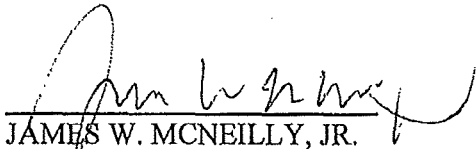
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Agreed to by:



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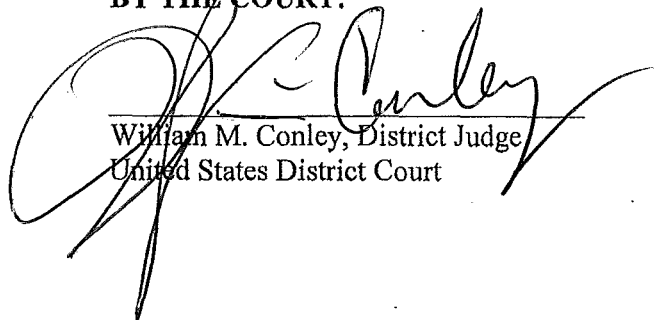
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SO ORDERED this 7th day of July, 2018.

BY THE COURT:



William M. Conley, District Judge
United States District Court